

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPLAINT OF RANDALL EHRLICH

Docket No. C2020-1

JOINT PREHEARING CONFERENCE MEMORANDUM
(April 10, 2020)

The United States Postal Service, (“USPS” or “Postal Service”) and Randall Ehrlich (“Complainant”), collectively known as the Parties, by and through their undersigned counsel, and in accordance with the Presiding Officer’s Ruling No. C2020-1/1¹, hereby file their Joint Prehearing Conference Memorandum.

I. Issues of Fact:²

1. Whether any dogs remain at Complainant’s residence that are aggressive or could be a threat to carrier safety.
2. Whether postal management followed non-discriminatory processes in its continuance of a dog hold on complainant’s residence.
3. Whether the alternate mailbox site proposed by the Complainant was a reasonable compromise between carrier safety and complainant’s security concerns.

¹ Docket No. C2020-1, Presiding Officer’s Ruling Scheduling Prehearing Teleconference and Establishing Initial Case Management Procedures, March 18, 2020, at 3.

² Docket No. C2020-1, Order No. 5455 Denying Postal Service Motion to Dismiss Complaint and Notice of Limited Formal Proceedings, March 17, 2020, at 8.

4. Whether the Complainant is obligated to comply with a mailbox relocation if there are no aggressive dogs remaining at his residence.
5. Whether a locked mailbox at the mailbox site approved by the Postal Service would alleviate Complainant's security concerns.

II. Issues Not Mutually Agreed Upon:

A. Issues of Fact

1. Complainant expects to request the PRC to expand the scope of the issues in this case by considering the alleged discriminatory behavior of local management at the Ballard Carrier Annex and the letter carrier in relation to the manner of mail delivery, not just location, and an appropriate remedy.
2. The Postal Service will object to any request to expand the scope of the issues in this case.

B. Discovery Issues

1. Complainant expects to propose to the Presiding Officer a ***single*** discovery request, which may include a maximum, including subparts, of: twenty-five (25) interrogatories (with each subpart consisting of a separate question), fifteen (15) requests for production of documents, and ten (10) requests for admissions. Discovery may be propounded in the above quantum to each of the following: letter carrier Ms. Voisine, the postmaster of the Ballard Carrier Annex from 2015 to date, the Seattle District Postmaster, the Postmaster General, the

Washington State Postmaster, and the equivalent FRCP 30(b)(6) representatives for USPS on questions of the Seattle District Animal/Insect Policy, carrier complaint investigation, customer complaint investigation, and due process relative to dog holds.

2. The Postal Service expects to propose to the Presiding Officer a ***single*** discovery request, which may include a maximum total, including subparts, of: ten (10) interrogatories (with each subpart consisting of a separate question), ten (10) requests for production of documents, and ten (10) requests for admissions.

III. Joint Stipulations of Fact:

1. At all times relevant to this complaint, Complainant resided at 5833 7th Avenue, N.W. Seattle, Washington 98107.
2. At all times relevant to this complaint, Sonja (also known as Tonja) Voisine ("Voisine") was employed as a City Letter Carrier at the Postal Service's Ballard Carrier Annex located in Seattle, Washington.
3. In or about 2005, Peggy Hougardy, a customer on Ms. Voisine's route, complained about the status of her mail delivery.
4. Declarations and statements filed in PRC Docket Nos. C2019-1 and C2020-1 note customer complaints about Ms. Voisine's alleged behavior.
5. At all times relevant to this complaint, Ms. Voisine was assigned delivery duties on a route that included Complainant's residence.

6. During times relevant to this complaint, Ms. Voisine delivered mail to Complainant's mailbox that is located on Complainant's front porch near the front door.
7. During times in July 2015, Complainant fostered a German Shepherd dog named Cookie at his residence.
8. Sometime in July 2015, Complainant's front door was opened, but the screen door was closed, behind which Cookie was situated also behind a gate, when Ms. Voisine delivered mail to Complainant's mailbox on the front porch near the front door.
9. While Complainant disputes the characterization, Ms. Voisine reported that Cookie behaved aggressively, by barking and jumping behind a screen door (with the solid door left open), when Ms. Voisine delivered mail to Complainant's mailbox on the front porch near the front door.
10. Complainant's dog, Cookie, did not leave Complainant's residence, make any contact with, chase, or attack Ms. Voisine during the alleged incidents that occurred in July 2015.
11. Complainant signed a Memorandum of Understanding (MOU) – Discontinuance of Mail Delivery dated July 20, 2015, a true copy of which is attached as Exhibit 1. A true copy of that MOU will be admitted as an exhibit.

12. Sometime in August 2015, after Cookie was adopted, Complainant fostered another dog, also a German Shepherd, named Lilah, at his residence.
13. Sometime in August 2015, Ms. Voisine reported that Complainant's dog was not kept behind a solid closed door when she delivered mail to Complainant's mailbox on the front porch near the front door.
14. Complainant's dog, Lilah, did not leave Complainant's residence, make any contact with, chase, or attack Ms. Voisine during the alleged incident that occurred in August 2015.
15. On or about October 16, 2015, Complainant obtained a post office box at his own expense.
16. A true copy of Postal Service Publication 174, *How to Avoid Dog Bites*, is attached as Exhibit 2.
17. By letter dated February 15, 2017, the Occupational Safety and Health Administration (OSHA) notified local Postal Service management that it received notice of alleged safety and health hazards related to a dog at Complainant's residence and requested that the Postal Service immediately investigate the alleged conditions and make any necessary corrections or modifications.
18. In response to the OSHA letter, local Postal Service management discussed mailbox relocation with Complainant.

19. On or about March 29, 2017, Complainant mounted a second mailbox on the side of a fence next to his driveway about 10' 6" from the sidewalk.
20. Local Postal Service management communicated with Complainant concerning USPS's directive that Complainant relocate his mailbox.
21. On or about April 3, 2017, Complainant contacted the Ballard Carrier Annex's former Manager, Customer Service, John Bell, to complain about Ms. Voisine.
22. By letter dated May 18, 2017, Mr. Bell notified Complainant that he had ten days to relocate his mailbox to the desired location (at the end of the driveway/sidewalk) to enable restoration of delivery, or establish another delivery address that mail could be forwarded to, or his mail would be returned to sender beginning on May 28, 2017.
23. Complainant has a security camera at his residence that shows his driveway and his neighbors' fence, including the current location of the mailbox on the fence and the end of the fence/driveway.
24. Complainant currently has a dog named Ilsa, whom he has had at his residence for three years.
25. By letter dated December 27, 2018, Seattle District Manager, Darrell Stoke, explained his position as to why he believed the second mailbox's placement would compromise the letter carrier's safety and notified Complainant to move his mailbox to enable resumption of mail delivery.

IV. Proposed Discovery Plan:

1. See section II.B. above, discussing discovery issues.
2. The Parties expect to request the Presiding Officer obtain discovery in the form of written interrogatories, requests for production of documents, and requests for admissions.
3. The proposed discovery requests will be sent, via email, as attached Word documents to the Presiding Officer, with a courtesy copy to opposing counsel, by no later than **May 1, 2020**.
4. The Parties agree that failure to timely submit their proposed discovery requests to the Presiding Officer by **May 1, 2020**, will result in waiver of the right to request discovery in this matter.
5. Upon the Presiding Officer's issuance of any information requests, the Parties expect to provide answers to the individual questions no later than thirty (30) calendar days after the Presiding Officer issues the discovery requests.
6. The Parties agree that email is the preferred method of communication and will exchange information responsive to the discovery requests via email, unless the responsive information requires transmission by alternate means (*i.e.*, password protected CD, electronic drop box, etc.) or nonpublic information under paragraph 9 is implicated.
7. The Parties anticipate that discovery will be completed within ninety (90) calendar days from the date the Presiding Officer issues the discovery requests.

8. The Parties agree that discovery will close no later than thirty (30) calendar days before a scheduled hearing date, if any.
9. Neither Party expects to seek records that would require non-public (confidential) treatment. The Postal Service may withhold any information that consists of Privacy Act-protected information of individuals other than Complainant. To the extent any information requires nonpublic treatment, the Parties shall collaborate with the Presiding Officer on appropriate disposition and access.

V. Status Concerning Settlement Discussions:

The Parties are currently engaging in settlement discussions and discussed potential options to resolve this matter on April 1 and 7, 2020. Complainant's counsel submitted a settlement proposal on April 2, 2020, and the Postal Service submitted its counter proposal on April 7, 2020. Although no definitive resolution has been achieved yet, both Parties' counsel expressed interest in continuing settlement discussions to resolve this matter.

By:

Adam P. Karp
Animal Law Offices of Adam P. Karp
114 W. Magnolia St., Ste. 400-104
Bellingham, WA 98225
Phone: (888) 430-0001
Fax: (833) 878-6835
Email: adam@animal-lawyer.com

B.J. (Jeff) Meadows III
United States Postal Service
475 L'Enfant Plaza, S.W. (Room 6047)
Washington, D.C. 20260

Phone: (202) 268-3009
Fax: (202) 268-5329
Email: B.Jeff.Meadows@usps.gov

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

Anthony F. Alverno
Chief Counsel
Global Business and Service
Development
Corporate and Postal Business Law
Section

B.J. Meadows III
LaSandy K. Raynor
Attorneys

475 L'Enfant Plaza, S.W. (Room 6407)
Washington, D.C. 20260-1101
Phone: (202) 268-3009; Fax (202) 268-5329
Email: B.Jeff.Meadows@usps.gov
April 10, 2020

EXHIBIT 1 TO THE JOINT PREHEARING CONFERENCE MEMORANDUM
MEMORANDUM OF UNDERSTANDING



**MEMO OF UNDERSTANDING
DISCONTINUANCE OF MAIL DELIVERY**

Date:

frw/k 10:30 AM

I, RANDALL B. STRICKA affirm and declare that the dog(s) owned by myself and/or kept on my premises will be kept under control during delivery hours (8:00 AM - 5:30 PM Monday - Saturday) and restrained in such a manner so as not to pose a threat to Postal Delivery Personnel.

I understand also, that I may be required to relocate my mailbox to a place (approved by the Postal Service), which allows the Letter Carrier safe access to deliver the mail, without interference from any dog(s) under my control.

I understand that failure to control my dog(s) and comply with the above agreement, may result in the discontinuance of delivery service. This agreement is in effect, beginning the date listed above and/or until it is revoked by the Station Manager, in writing.

[Handwritten Signature]

Signature: RANDALL B. STRICKA

Printed Name: _____

Address: 5833 7th Ave NW

Route : _____ Date Notice Left : _____ Move Box (Y/N) _____

Ballard Station
4501 9th Ave NW
Seattle, WA 98107-9998

*pls present
this letter to the
supervisor / mgr of the
Ballard Station. It has
to be signed when you
pick up your mail.
frw/k*

EXHIBIT 2 TO THE JOINT PREHEARING CONFERENCE MEMORANDUM

Publication 174, *How to Avoid Dog Bites*

How to Avoid Dog Bites

Dogs and Dog Repellent



Be Safe Around Dogs

Dogs are self-elected and often highly trained protectors of their masters and their master's property. To them, you are an intruder. You must prepare yourself for a challenge every day from every dog you meet as you go about your daily work.

Basic rules to follow:

1. **Observe the area.** Take a quick glance at all the places a dog may be — under parked cars, under hedges, on the porch, etc.
2. **Size up the situation.** Determine if the dog is asleep, barking, growling, nonchalant, large, small, etc.
3. **Avoid signs of fear.** A dog is more apt to bite you if it knows you are afraid.
4. **Don't startle a dog.** If the dog is asleep, make some kind of non-startling noise, such as soft whistling. Do this before you are close to the dog, while you still have time and space for an "out."
5. **Never assume a dog won't bite.** You may encounter a certain dog for days or weeks without incident — and then one day, it might decide to bite you.
6. **Keep your eyes on the dog.** A dog is very likely to bite you when you aren't looking. Always be on the alert for a sneak attack!
7. **Make friends.** Talk in a friendly manner. Call the dog's name if you know it, but **never** attempt to pet or feed a dog.
8. **Stand your ground.** If a dog comes toward you, turn and face it. If you have a satchel, hold it in front of you and back slowly away while making sure you don't stumble and fall. NEVER TURN AND RUN.
9. **If a dog attacks you, use the repellent to protect yourself.**

Nondelivery of Mail Policy

The availability and use of the repellent does NOT replace the policy of nondelivery of mail where there is a dog menace.

Collection and delivery service personnel are to report the name and address of the customer where such a menace occurs to the postmaster or authorized supervisor, who must immediately telephone the customer and request that the dog be confined during the usual delivery hours in the neighborhood. The postmaster or authorized supervisor must further inform the customer that (1) no deliveries will be made until the dog is confined, and (2) service will be restored upon assurance that the dog will be confined.

Dog Owner's Responsibility

Dog owners are responsible for controlling their dogs. Most communities have ordinances for the control of dogs. Even though postmasters frequently ask customers to control their dogs, and have discontinued service to those who do not cooperate, injuries caused by dogs continue to mount.